

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHELL BLANCO, aka MITCHELL
BLANCO, aka MICHEL BLANCO,

Petitioner,

v.

STATE OF NEVADA,

Respondent.

Case No. 3:23-cv-00116-MMD-CLB

ORDER

This case was initiated on March 20, 2023, by Petitioner Michell Blanco, an individual incarcerated at Nevada's Ely State Prison. On that date, the Court received from Blanco a petition for writ of habeas corpus (ECF No. 1-1) and, as an attachment to the petition, portions of a brief filed on Blanco's behalf in the Nevada Supreme Court in Case Number 83937 on or about May 31, 2022 (ECF No. 1-2).

Blanco has not paid the filing fee for this action, and he has not applied to proceed *in forma pauperis*.

Moreover, Blanco's habeas petition is not on a form required by the Court. See LSR 3-1. Rather, the petition is on a state court form, and is captioned for filing in state court. Because the petition is on an improper form, because Petitioner has not completed some parts of the form petition, and because parts of the petition are simply inscrutable, the Court would be unable to screen this petition and proceed with this action on it.

It also appears that Blanco's petition for a writ of habeas corpus in federal court is premature. While it appears that Blanco has appealed from the judgment of conviction he

1 seeks to challenge, it appears that he has not pursued a state post-conviction challenge
2 (a state habeas petition) with respect to that conviction. (ECF No. 1-1 at 2 (stating Blanco
3 appealed from the judgment of conviction), 3 (stating that Blanco has not previously filed
4 any other petitions, applications, or motions with respect to the judgment of conviction).)
5 This—along with the fact that the petition is on a state court form—suggests that Blanco
6 may have meant to file this petition in state court rather than this federal court. And, at
7 any rate, it indicates that, as a federal habeas petition, Blanco’s petition in this Court is
8 likely premature.

9 For all these reasons, the Court will dismiss this action without prejudice. If Blanco
10 wishes to attempt to pursue a federal habeas petition in this Court at this time, he must
11 draft and submit a petition using a form authorized by this Court, and he must either pay
12 the \$5 filing fee or apply for *in forma pauperis* status. If he chooses to do so, Blanco must
13 initiate a new action—that is, he should *not* include the case number of this action on his
14 new petition and/or on any other document filed along with it.

15 As a final matter, the Court observes that Blanco’s name has been spelled
16 differently in other actions in state court, other actions in this Court, and on the website of
17 the Nevada Department of Corrections. The Court will direct the Clerk of Court to include
18 those alternative spellings on the docket for this action.

19 It is therefore ordered that this action is dismissed without prejudice.

20 It is further ordered that Petitioner is denied a certificate of appealability.

21 The Clerk of Court is directed to enter judgment accordingly.

22 The Clerk of Court is directed to include, on the docket for this action, the following
23 alternative spellings of Petitioner’s name: “Mitchell Blanco,” and “Michel Blanco.” The
24 docket should reflect that Petitioner’s name is: “Michell Blanco, aka Mitchell Blanco, aka
25 Michel Blanco.”
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1 The Clerk of Court is directed to send a copy of this order, and a copy of the habeas
2 petition (ECF No. 1-1), to the Attorney General of the State of Nevada. The Attorney
3 General need take no action regarding this case.

4 The Clerk of Court is directed to send Petitioner two copies of the form for a petition
5 for a writ of habeas corpus under 28 U.S.C. § 2254 by a person in state custody (not
6 sentenced to death), and two copies of the form for an application to proceed *in forma*
7 *pauperis* by an inmate.

8 DATED THIS 3rd Day of April 2023.

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11 MIRANDA M. DU
12 CHIEF UNITED STATES DISTRICT JUDGE
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